



## Viewpoints, Outlook

Feb. 10, 2007, 7:48PM  
Lone Star Justice

### Think outside the cell

Building more prisons is the mindless, costly way to fight crime. Texans have better choices. Here are some.

By LAWRENCE T. JABLECKI

The Texas Department of Criminal Justice is requesting funds for three new prisons: two maximum security units each housing 2,000 inmates and one medium security unit housing 1,000. This request involves the spending of approximately \$377 million for 5,000 inmates.

State Sen. John Whitmire, D-Houston, chairman of the Texas Senate's Criminal Justice Committee, and state Rep. Jerry Madden, R-Richardson, chairman of the House Committee on Corrections, have joined forces to oppose this request. Under the banner of "thinking smart about crime," they argue that approximately 6,500 nonviolent probationers and parolees with minor criminal and noncriminal violations should be placed in residential facilities where they would receive treatment for alcohol and drug abuse and counseling for the terms of their conditional release.

I hope that Whitmire and Madden win this battle in the perpetual war against crime. I am persuaded, however, that their agenda is but a superficial tinkering with a very ugly Leviathan in need of a radical, bottom-up overhaul.

Texas' criminal justice system was created by and is administered by many thousands of good people dedicated to the pursuit of truth, equality before the law and doing justice.

Sadly, however, piecemeal changes over many years have allowed for the emergence of a mean-spirited assembly line machine that too often conceals the truth and makes a mockery of the ideals of equality and justice under the law. The egregious and unintended consequence is a prison/industrial empire, which works to the economic advantage of special interest groups. These groups' collective motto is: "If we build them, they will be sent."

The only way for our state lawmakers to curtail the influence of those who preach in favor of more prisons is to think outside the box. The following proposals for systemic reform have the potential to reduce the number of persons sentenced to prison while also reducing recidivism:

- Create a statewide public defense delivery system. Principles adopted by the American Bar Association offer guidance in doing so. According to the ABA, "the fundamental criteria to be met for a public defense delivery system [are] to deliver effective and efficient, high quality, ethical, conflict-free representation to accused persons who cannot afford to hire an attorney." I have many friends with years of experience representing criminal defendants. When the court appoints them to a case, they provide the same diligent representation for indigent clients as they do for those who can pay their fee. They are, however, the exception.

What happens in the majority of cases with court-appointed counsel looks more like this: During a morning docket call, shackled herds of defendants charged with felony crimes receive a court-appointed attorney who confers with them less than five minutes. The defendants are informed of the plea offer from the prosecutor and told that they have until noon to accept it or face a more punitive recommendation. The attorney knows next to nothing about the facts of the case and has no knowledge of the life of his new client, but tells him he has negotiated the best possible deal. This assembly line process is designed to clear cases from a crowded docket and occurs in the context of the assumption of guilt and is largely controlled by the prosecutor.

It is not a process for the discovery of truth and the doing of justice. Indeed, there is no doubt that the unintended consequences of this process include the conviction of innocent persons.

Money budgeted by counties for court-appointed legal counsel should be diverted to the operation of the public defenders office. The inherently inequitable process in which judges are authorized to appoint legal counsel should be abolished.

- Follow the strong recommendations of the ABA, the National District Attorney's Association and a commission by the U.S. Department of Justice and abolish the strictly for-profit commercial bail bond industry. This is a cancerous parasite run by private citizens whose only concern is to generate a profit. They should not be allowed to decide who will be released from jail. We should replace this industry with a statewide pretrial service agency under the authority of the judiciary. The employees of this agency would provide the courts with critical information regarding who should and should not be released.

Abolishing the commercial bail bond industry would mean that many defendants would have enough financial resources to negotiate the services of an experienced criminal defense attorney.

- Create a statewide system of pretrial diversion and deferred prosecution programs. The model for this legislation should be the programs designed by the county attorney's office in Travis County. These programs have the potential to divert from future criminal activity multitudes of

primarily young offenders guilty of writing hot checks, shoplifting and possessing small amounts of drugs. In exchange for remaining crime-free for six to 12 months, completing some community service work and completing an assessment/evaluation, the offender's case is dismissed. Immediately following the successful completion, offenders would have the right to initiate the process to have the arrest expunged from their record.

- Officially acknowledge that the war on drugs is a catastrophic failure. The consequences of this failure are succinctly and accurately stated by Orlando Patterson of Harvard University. They include: "an enormous increase in the incarceration of young, disproportionately minority Americans, resulting in the waste of human resources and the creation of a prison culture that converts nonviolent addicts into hardened criminals, without any impact on drug use."

Lt. Gov. David Dewhurst and Speaker of the Texas House Tom Craddick should appoint an interim committee to seek out the essentials of rational and humane drug laws that promote the safety and health of all citizens.

- Fix the Board of Pardons and Paroles. Every year the six board members and 12 commissioners have to make some extremely tough decisions regarding the release of thousands of inmates eligible for parole. Many of the inmates have a history of violence in which the lives of victims and their families were shattered or destroyed and they were incarcerated for another crime of violence.

The public has a right to demand that the decisions of these 18 people are consistent with approved release criteria. The Sunset Staff Report presented to the current Legislature unambiguously documents that from 1987 to the present, "the Board of Pardons and Paroles has not adequately updated and used required parole guidelines to help ensure the most consistent, appropriate release decisions."

The result is that our prisons have remained full of thousands of inmates who, according to all of the approved release criteria, could have been paroled with no risk to public safety. This failure to free up prison beds has fueled the demand for many millions of tax dollars to build new prisons.

The entire parole process should be reinvented and given the resources to accomplish its mission. Perhaps the time has even come for the state to abolish parole and create a "truth-in-sentencing" system similar to that used in the federal system. Since the abolition of parole, the majority of federal prisoners must be confined for 85 percent of their sentence in real calendar time with the remaining 15 percent available for credit for good behavior. Many state inmates are in favor of such a system because it replaces uncertainty and the potential abuse of discretion with certainty and a known date of release.

- Reduce the number of probationers, parolees and persons on mandatory supervision who are sentenced to and returned to prison for minor crimes and noncriminal violations. For at least 20 years, legislators have voiced the complaint that every year this group of offenders is an unnecessarily large percentage of new admissions to our prisons and fuels the call for more prisons. I do not have a definitive solution that would win a consensus of the key players, particularly, judges and prosecutors. For the present, the only realistic hope is that Sen.

Whitmire and Rep. Madden can use their combined political muscle to deliver more funds for the statewide development and expansion of community sanctions and treatment programs.

- Increase funding for in-prison vocation and education programs and Project RIO. Recent public opinion polls inform us that the majority of Americans have two inseparable beliefs regarding what can and should occur in the lives of prison inmates: 1) most of them are capable of changing into law-abiding members of society and should be given a variety of opportunities for change. 2) Upon release, they should be "better" persons.

What are the best available tools for changing inmates into better persons?

There are no magic wands containing virtue dust we can give out to prison administrators to wave over the heads of inmates immediately prior to release that will turn them into better people. But numerous research projects verify that the recidivism rate of ex-offenders who complete vocation and education programs is substantially less than those who do not. Inmates who learn a skilled trade and/or complete high school are more successful after re-entry. And those who manage to earn a college or university degree confirm that these programs are the most successful and cost-effective tools of crime prevention. The 1994 abolition of Pell Grants for prison inmates was a totally uninformed and shortsighted decision by the U.S. Congress.

Key players in Austin who are really "thinking smart" about crime prevention should: approve a substantial increase in state funding for the continuation and expansion of post-secondary education; and wage an intense lobbying campaign in the halls of Congress to restore prisoner eligibility.

Project RIO, the re-integration of offenders, is a monumentally successful program that should receive a major increase of funds. This program provides job preparation services to prison inmates to give them a head start in the post-release search for employment. Since its creation in 1985, it has established a track record of assisting and finding employment for thousands of ex-offenders whose recidivism rate is significantly less than nonparticipants — and it has saved the state millions of real tax dollars.

This agenda is not grounded in the romantic and false belief that there is a treasure in the heart of every criminal offender just waiting to be discovered. Some are incorrigibly mean and evil.

It is grounded in a belief that the majority of criminal offenders are not enemies to be conquered and destroyed. They are human beings who should be given opportunities for change and restored to our communities because it is in the public interest to do so.

*Jablecki is a part-time lecturer in the Sociology Department at Rice University, where he teaches courses in criminology and the criminal justice system. For 18 years he was the director of the adult probation department in Brazoria County. He can be e-mailed at [jablecki@sbcglobal.net](mailto:jablecki@sbcglobal.net).*



**ADVERTISING:** [Contests](#) | [Fraudulent Ads](#) | [Information & Rates](#) | [Place An Ad](#) | [Singles In Houston](#) | [Yellow Pages](#)

**CHRONICLE:** [Subscribe Now](#) | [Subscriber Services](#) | [Buy Photos](#) | [Chronicle in Education](#) | [Corrections](#) | [Public Affairs](#) | [RSS Feeds](#)  **RSS**

**SERVICES:** [Copyright Notice & Privacy Policy](#) | [Help](#) | [Registration](#) | [Report a Problem](#) | [Site Map](#) | [News Alerts](#) | [Newsletters](#)

